

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

CORNELL F. DAYE,

Plaintiff,

v.

CIVIL ACTION NO. 2:11-cv-00106

DAVID BALLARD, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

This action was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and has recommended that the court **GRANT** the Defendants' Motion to Dismiss [Docket 19] and **DISMISS** the action with prejudice. The plaintiff has not filed objections to the Magistrate Judge's findings and recommendation.

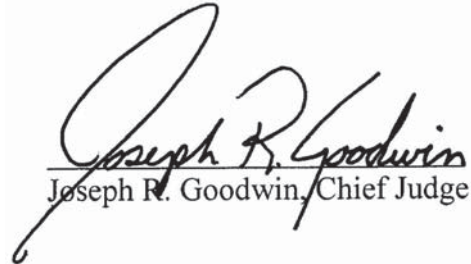
A district court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1)(C). This court is not, however, required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985).

As the plaintiff has not filed objections in this case, the court adopts and incorporates herein the findings and recommendation of the Magistrate Judge and orders judgment consistent

therewith. The court **GRANTS** the Defendants' Motion to Dismiss and **DISMISSES** the action with prejudice.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: March 21, 2012



Joseph R. Goodwin, Chief Judge